

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SUN SOOK LEE, SP 2012-SP-075 Appl. under Sect(s). 8-301 and 8-914 of the Zoning Ordinance to permit home child care facility and to permit reduction in minimum yard requirements based on error in building location to permit open deck to remain 0.4 ft. from side lot line. Located at 4103 Mount Echo Ln., Fairfax, 22033, on approx. 8,639 sq. ft. of land zoned R-3 (Cluster) and WS. Springfield District. Tax Map 45-4 ((3)) (29) 11. (Indefinitely deferred from 1/16/13 at appl. req.) (Reactivated on 4/26/13.) Ms. Gibb moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The Board adopts staff's recommendations of approval.
3. There has been testimony about the operation, and from the photographs and testimony, it sounds like it is a well-run small child care facility.
4. It sounds as if the applicant is aware of the neighbors and trying to respond to their needs.
5. There is a real need for child care in Fairfax County.
6. The Board of Supervisors, in adopting a new Zoning Ordinance, is trying to make it easier to have twelve children and make it consistent with the state requirements and licensing.
7. These facilities are licensed and inspected by the State.
8. The Board is going to amend the development condition regarding parking for the employee.
9. The Board hears the neighbors about their concern about parking.
10. The Board is hoping that the fact that the applicant has been attentive to her neighbors in the past will make her attentive to their needs as far as parking by her parents in the future, so if there is an issue, the neighbors can talk to her about it, and she will talk to her parents.
11. If there is an issue about too fast driving or parking in other people's spots, that can be taken care of in a neighborly way.
12. The open deck will not have an impact on the neighbors.
13. It is safe enough for the children, and it is making a larger play area for the children.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This approval is granted to the applicant, Sun Sook Lee, only and is not transferable without further action of the Board, and is for the location indicated on the application, 4103 Mount Echo Lane, and is not transferable to other land.
- 2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special permit plat prepared by Dominion Surveyors, Inc., dated October 2, 2012, as revised through October 17, 2012, and approved with this application, as qualified by these development conditions.

3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:30 a.m. to 12:30 p.m., Saturday.
5. The maximum number of children on site at any one time shall be twelve (12), excluding the applicant's own children.
6. The applicant and assistants shall use on-street parking during the hours of operation of the child care facility. Pick up and drop off of children shall take place in the driveway.
7. The maximum number of employee cars shall be limited to one on the street at any one time in addition to the applicant.
8. The dwelling that contains the child care facility shall be the primary residence of the applicant.
9. There shall be no signage associated with the home child care facility.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established as outlined above. The number of children shall not be increased above seven (7) until all conditions are met. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Beard seconded the motion, which carried by a vote of 5-0. Mr. Hammack and Mr. Smith were absent from the meeting.

A Copy Teste:

  
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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals